

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

November 13-17, 2000

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
11-14	CANC	24,639	Symetrix, Inc. v. Lucid Corp.	Simms Chapman*	abandonment; whether petitioner proved its standing	Petition to Cancel Denied		"LUCID" [computer programs]			No
11-14	OPP (R)	106,611	SkyTel Corp. v. Vehicle Access Corporation, Incorporated	Simms Walters Chapman*	2(d)	Request for Reconsideration Denied (Opposition Sustained)	"SKYTEL, SKYTALK, SKYPAGER, SKYNEWS, SKYMAIL" (a family of various SKY- prefix marks) [paging and messaging services, providing news, financial and other information to paging service subscribers, paging and messaging receivers, and computer software for the wireless sending and receiving of data via radio waves]	"SKYLOCK" [vehicle anti-theft systems comprising cellular telephones, pagers, two-way pagers, and satellite signal processors]			No
11-14	EX	75/402,227	Strategic Marketing Partners, Inc.	Seeherman Hairston Holtzman*	2(d)	Refusal Affirmed		"SMP" [market research and business marketing consultation in the pharmaceutical and biotechnology fields]	"SMP ADVERTISING" [advertising agency services]	Fromm	No
11-14	EX	75/329,304	Regal Discount Securities, Inc.	Simms Cissel Bottorff*	2(e)(1)	Refusal Reversed		"E-OPTION" [stock brokerage services in securities, including the buying and selling of stocks, options and mutual funds]		Aikens	No

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11-14	EX	75/035,717	Music City Marketing, Inc.	Simms (D) Hanak Wendel*	de jure functionality	Refusal Reversed		cigarette-shaped product configuration [smoking pipes]		Mandir	No
11-14	EX EX EX	75/419,344 75/419,512 75/419,515	Thomaston Mills, Inc.	Quinn* Chapman Wendel	2(d)	Refusal Reversed (in all three cases)		"THOMASTON MILLS BED-IN-A-BAG," "THOMASTON BED-IN-A-BAG," and "THOMASTON MILLS BED IN A BAG" [all three marks for bed sheets, pillowcases, bed ruffles, pillow shams and comforters]	"BED IN A BAG" (and design incorporating other wording) and "BED IN A BAG (and design incorporating the graphic representation of a bed) [both marks for bedding, namely, comforters, bed skirts, shams, sheets and pillowcases]; "BED IN A BAG" [bedding products, namely, sheets, pillowcases, comforters, pillow shams and bedskirts, not actual beds]	Altree	No
11-15	EX	75/446,093	Eagle & Taylor Co.	Hairston Chapman Wendel*	2(d)	Refusal Affirmed		"BOSTONIAN" [decorative glass panels for residential steel doors]	"BOSTONIAN" [wooden interior and exterior doors and door skins of molded wood fiber material]	Keam	No

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11-15	EX	75/426,148	Donlar Corp.	Simms Hanak Quinn*	2(d)	Refusal Reversed		"MAGNET" [agricultural products, namely, a fertilizer enhancer for fruits and vegetables]	"MAGNEX" [combination greening ingredient incorporated in a fertilizer]	Bhatti	No
11-15	EX	75/339,348	Biovector Therapeutics, S. A.	Hanak* Quinn Wendel	2(e)(1); genericness; whether applicant failed to comply with requests under Rule 2.61(b)	Refusal Reversed as to Rule 2.61(b) requirement and genericness; application remanded for further consideration of Section 2(e)(1), in view of possible submission of Sec. 2(f) evidence		"BIOVECTOR" [pharmaceutical preparations, namely, drug delivery systems, drug carriers, pharmaceutical excipients, drug adjuvants, drug activators and drug penetration enhancers; and pharmaceutical preparations used for neurology, pain, cancer, immunotherapy, vaccines, namely, DNA vaccines, autoimmune disease, hormone therapy, endocrinology, anti-infectious, cardiology, deficiency disease, rheumatology, allergy, otorhino-laryngology, pneumology, ophthalmology, gene therapy and diagnostics; pharmaceutical research and development services for others]		Mandir	No

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11-15	EX (R)	75/366,221	PageMart, Inc.	Simms Cissel Seeherman*	2(d)	Request for Reconsideration Denied [Refusal Affirmed (but only as to the cited mark SCOUT for wireless microphones and receivers)]		"SCOUT" [message pagers and personal communication systems, namely, two-way pagers; and two-way pager cards]	"SCOUT" [digital computers] <i>and</i> "SCOUT" [wireless microphones and wireless receivers]	Axilbund	No
11-15	CANC	25,986	Slim N' Trim, Inc. v. Mehadrin Dairy Corp.	Seeherman Wendel* Rogers	2(d); laches	Petition to Cancel Granted	"SLIM" [non-fat milk and non-fat yogurt]; "SLIM N' TRIM," "SLIM N' LIGHT," and "SLIMLINE" [all three marks for low fat yogurt (and other dairy products)]; and other marks incorporating the word "SLIM"	"SLIM 80" [yogurt]			No
11-15	EX EX	75/126,815 75/126,816	AutoNation Inc.	Simms* Hohein Wendel	whether the matter applicant seeks to register functions as a mark for applicant's services	Refusal Affirmed (in both cases)		"MONEYBACK GUARANTEE" (and design) [automobile dealership services; automobile repair and maintenance services]		Micheli	No

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11-16	OPP	109,664	Bose Corp. v. QSC Audio Products, Inc.	Hanak Quinn Walters*	2(d)	Opposition Dismissed	"WAVE" [radios, clock radios, audio tape recorders and players, portable radio and cassette recorder combinations, compact stereo systems and portable CD players] and "ACOUSTIC WAVE" [loudspeaker systems and music systems consisting of a loudspeaker system and amplifier and at least one of a radio tuner, CD player and audio tape cassette player]	"POWERWAVE" [electronic audio and video signal processing equipment, namely, amplifiers and power amplifiers]			No
11-17	EX	75/532,079	American Sporting Goods Corp.	Quinn Bottorff* Rogers	2(d)	Refusal Affirmed		"URBAN SPORT" [footwear and active wear, namely, leotards, unitards, athletic bra tops, shorts, leggings, tights, sweatshirts, caps, and tank tops]	"URBAN SPORT" (and design) [retail clothing store services, featuring clothing and sportswear]	D. Lee	No
11-17	OPP	110,124	Kemin Industries, Inc. v. Daniel Hes	Quinn Walters Bucher*	2(d)	Opposition Sustained	"MADE WITH NATUROX – A NATURAL ANTIOXIDANT" (and design) [human and animal feed preservatives in the nature of a natural antioxidant]	"NATUROL" [food supplements containing one or more of the following extracts, in pure alcohol: garlic, grape, pumpkin, olive, parsley, fenugreek]			No

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11-17	EX	75/265,610	James Hardie Research Pty., Ltd.	Walters Bottorff* Holtzman	2(d)	Refusal Affirmed		"FIRE X" [fire resistant grade gypsum board for interior wall and ceiling application]	"FIRE-X" (in stylized form) [lumber which has been impregnated with a fire-retardant chemical]	McGee	No

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